

# EXHIBIT A

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF KING**

Sarah Erhart

vs

Zimmer, Inc.

No. 22-2-03423-8 SEA

**CASE INFORMATION COVER SHEET AND  
AREA DESIGNATION**

(CICS)

**CAUSE OF ACTION**

TTO - Tort /Other

**AREA OF DESIGNATION**

SEA

Defined as all King County north of Interstate 90 and including all of Interstate 90 right of way, all of the cities of Seattle, Mercer Island, Issaquah, and North Bend, and all of Vashon and Maury Islands.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SARAH ERHART, an individual,

Plaintiff,

v.

ZIMMER, INC., a Delaware corporation dba  
ZIMMER BIOMET; ZIMMER US, INC., a  
Delaware corporation dba ZIMMER BIOMET;  
BIOMET, INC., an Indiana corporation dba  
ZIMMER BIOMET; and DOES 1-10,

Defendants.

No. 22-2-03423-8 SEA

SUMMONS (20 DAYS)

TO: ZIMMER, INC., a Delaware corporation dba ZIMMER BIOMET;

TO: ZIMMER US, INC., a Delaware corporation dba ZIMMER BIOMET;

TO: BIOMET, INC., an Indiana corporation dba ZIMMER BIOMET.

A lawsuit has been started against you in the above entitled court by the above-captioned plaintiff. Plaintiff's claims are stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond by stating your defense in writing, and serve a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you

SUMMONS (20 DAYS) - 1

**EMERY | REDDY, PLLC**  
600 Stewart Street, Suite 1100  
Seattle, WA 98101  
PHONE: (206) 442-9106 • FAX: (206) 441-9711

1 without notice. A default judgment is one where the plaintiff is entitled to what he asks for  
2 because you have not responded. If you serve a notice of appearance on the undersigned person,  
3 you are entitled to notice before a default judgment may be entered.

4 You may demand that the plaintiff file this lawsuit with the court. If you do so, the  
5 demand must be in writing and must be served upon the person signing this summons. Within  
6 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the  
7 service on you of this summons and complaint will be void.

8 If you wish to seek the advice of an attorney in this matter, you should do so promptly so  
9 that your written response, if any, may be served on time.

10 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of The State  
11 of Washington.

12  
13 DATED this 9<sup>th</sup> day of March, 2022.

14 Submitted By:

15 EMERY | REDDY, PLLC

16  
17 By:

  
TIMOTHY W. EMERY

WSBA No. 34078

PATRICK B. REDDY

WSBA No. 34092

600 Stewart Street, Suite 1100

Seattle, WA 98101

Telephone: (206) 442-9106

Fax: (206) 441-9711

Email: emeryt@emeryreddy.com

Email: reddyp@emeryreddy.com

*Attorneys for Plaintiff Sarah Erhart*

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SARAH ERHART, an individual,

Plaintiff,

v.

ZIMMER, INC., a Delaware corporation dba  
ZIMMER BIOMET; ZIMMER US, INC., a  
Delaware corporation dba ZIMMER BIOMET;  
BIOMET, INC., an Indiana corporation dba  
ZIMMER BIOMET; and DOES 1-10,

Defendants.

No. 22-2-03423-8 SEA

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TO: ZIMMER, INC., a Delaware corporation dba ZIMMER BIOMET;

TO: ZIMMER US, INC., a Delaware corporation dba ZIMMER BIOMET;

TO: BIOMET, INC., an Indiana corporation dba ZIMMER BIOMET.

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In order to defend against this lawsuit, you must respond by stating your defense in writing, and serve a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you

SUMMONS (20 DAYS) - 1

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14 Submitted By:

15 EMERY | REDDY, PLLC

16  
17 By:

  
TIMOTHY W. EMERY

18 WSBA No. 34078

PATRICK B. REDDY

19 WSBA No. 34092

20 600 Stewart Street, Suite 1100

Seattle, WA 98101

21 Telephone: (206) 442-9106

Fax: (206) 441-9711

22 Email: emeryt@emeryreddy.com

Email: reddyp@emeryreddy.com

23 *Attorneys for Plaintiff Sarah Erhart*

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SARAH ERHART, an individual,

Plaintiff,

v.

ZIMMER, INC., a Delaware corporation dba  
ZIMMER BIOMET; ZIMMER US, INC., a  
Delaware corporation dba ZIMMER BIOMET;  
BIOMET, INC., an Indiana corporation dba  
ZIMMER BIOMET; and DOES 1-10,

Defendants.

No. 22-2-03423-8 SEA

NOTICE OF APPEARANCE

TO: Sarah Erhart, Plaintiff;

AND TO: Timothy W. Emery, and Patrick B. Reddy, EMERY | REDDY, PLLC, Attorneys  
for Plaintiff;

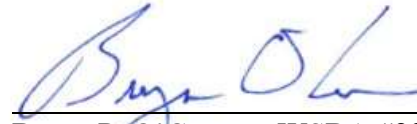
AND TO: Clerk of the Court.

PLEASE TAKE NOTICE that Bryan P. O'Connor of the law firm of Jackson Lewis P.C.  
hereby enters his appearance in the above cause on behalf of Defendants Zimmer, Inc. d/b/a  
Zimmer Biomet, Zimmer US, Inc. d/b/a Zimmer Biomet, and Biomet, Inc. d/b/a Zimmer Biomet,  
without waiving any or all claims or defenses that may exist pursuant to Fed. R. Civ. P. 12(b) or  
otherwise. You are hereby requested to serve all further pleadings and papers herein, except  
original process, upon the undersigned, at the address stated below.

1 DATED this 30<sup>th</sup> day of March, 2022.

2 JACKSON LEWIS P.C.

3  
4 By:



5 Bryan P. O'Connor, WSBA #23867  
6 520 Pike Street, Suite 2300  
7 Seattle, WA 98101  
8 [Bryan.OConnor@jacksonlewis.com](mailto:Bryan.OConnor@jacksonlewis.com)  
9 Telephone: 206-626-6423

10 Counsel for Defendants  
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**DECLARATION OF SERVICE**

The undersigned declares under penalty of perjury under the laws of the State of Washington that a true and accurate copy of the document to which this declaration is affixed was sent to the following:

Timothy W. Emery, WSBA #34078  
Patrick B. Reddy, WSBA #34092  
EMERY | REDDY, PLLC  
600 Stewart Street, Suite 1100  
Seattle, WA 98101  
Email: [emeryt@emeryreddy.com](mailto:emeryt@emeryreddy.com)  
[redryp@emeryreddy.com](mailto:redryp@emeryreddy.com)

☒ via CM/ECF System

☒ via Electronic Mail

☐ via USPS Mail

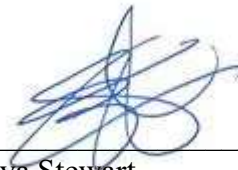
☐ via Federal Express

☐ via Hand-delivery

☐ Other: \_\_\_\_\_

Counsel for Plaintiff

DATED this 30<sup>th</sup> day of March, 2022.



Tanya Stewart

4878-5352-3738, v. 1

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SARAH ERHART, an individual,

Plaintiff,

v.

ZIMMER, INC., a Delaware corporation dba  
ZIMMER BIOMET; ZIMMER US, INC., a  
Delaware corporation dba ZIMMER BIOMET;  
BIOMET, INC., an Indiana corporation dba  
ZIMMER BIOMET; and DOES 1-10,

Defendants.

No. 22-2-03423-8 SEA

NOTICE OF APPEARANCE

TO: Sarah Erhart, Plaintiff;

AND TO: Timothy W. Emery, and Patrick B. Reddy, EMERY | REDDY, PLLC, Attorneys  
for Plaintiff;

AND TO: Clerk of the Court.

PLEASE TAKE NOTICE that Megan Burrows Carpenter of the law firm of Jackson Lewis P.C. hereby enters her appearance in the above cause on behalf of Defendants Zimmer, Inc. d/b/a Zimmer Biomet, Zimmer US, Inc. d/b/a Zimmer Biomet, and Biomet, Inc. d/b/a Zimmer Biomet, without waiving any or all claims or defenses that may exist pursuant to Fed. R. Civ. P. 12(b) or otherwise. You are hereby requested to serve all further pleadings and papers herein, except original process, upon the undersigned, at the address stated below.

1 DATED this 30<sup>th</sup> day of March, 2022.

2 JACKSON LEWIS P.C.

3  
4 By:

  
Megan Burrows Carpenter, WSBA #45941

[Megan.Carpenter@jacksonlewis.com](mailto:Megan.Carpenter@jacksonlewis.com)

Telephone: 206-626-6427

520 Pike Street, Suite 2300

Seattle, WA 98101

Counsel for Defendants

**DECLARATION OF SERVICE**

The undersigned declares under penalty of perjury under the laws of the State of Washington that a true and accurate copy of the document to which this declaration is affixed was sent to the following:

Timothy W. Emery, WSBA #34078  
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600 Stewart Street, Suite 1100  
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[redryp@emeryreddy.com](mailto:redryp@emeryreddy.com)

☒ via CM/ECF System

☒ via Electronic Mail

☐ via USPS Mail

☐ via Federal Express

☐ via Hand-delivery

☐ Other: \_\_\_\_\_

Counsel for Plaintiff

DATED this 30<sup>th</sup> day of March, 2022.



Tanya Stewart

4855-4954-0634, v. 1

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SARAH ERHART, an individual,

Case No. 2:22-cv-00472

Plaintiff,

**NOTICE OF REMOVAL**

v.

(DIVERSITY OF CITIZENSHIP)

ZIMMER, INC., a Delaware corporation dba  
ZIMMER BIOMET; ZIMMER US, INC., a  
Delaware corporation dba ZIMMER BIOMET;  
BIOMET, INC., an Indiana corporation dba  
ZIMMER BIOMET; and DOES 1-10,

(from King County Superior Court, Case No.  
22-2-03423-8-SEA)

Defendants.

TO: Clerk of the Court;

AND TO: Plaintiff Sarah Erhart;

AND TO: Timothy Emery and Patrick Reddy, Counsel for Plaintiff.

In accordance with 28 U.S.C. §§ 1332(a), 1441, and 1446(c), Defendants Zimmer, Inc. d/b/a Zimmer Biomet, Zimmer US, Inc. d/b/a Zimmer Biomet, and Biomet, Inc. d/b/a Zimmer Biomet (“Defendants”), by and through the undersigned counsel, hereby remove this action from King County Superior Court to this Court based upon complete diversity of citizenship of the parties.

In support of its Notice of Removal, the following statement is submitted pursuant to 28 U.S.C. § 1446(a):

## COMMENCEMENT

1  
2           1.       On March 9, 2022, Plaintiff filed a Complaint in King County Superior Court,  
3 which the state court designated as Case No. 22-2-03423-8-SEA. *See* Declaration of Bryan P.  
4 O'Connor in Support of Notice of Removal ("O'Connor Declaration") at ¶2. On February 11,  
5 2022, Plaintiff served the Defendants Biomet, Inc. and Zimmer US, Inc. with copies of the  
6 Summons and Complaint. *Id.* at ¶2. The remaining corporate defendant was served on a later  
7 date. *Id.* at ¶2. A true and correct copy of the Complaint is attached hereto as **Attachment A.**

## DIVERSITY JURISDICTION

8  
9           2.       This Court has subject matter jurisdiction under 28 U.S.C. § 1332 because (1) there  
10 is complete diversity of citizenship between the parties; (2) the amount in controversy exceeds  
11 \$75,000, exclusive of interest and costs; and (3) all other requirements for removal have been  
12 satisfied.

13           3.       Defendant Zimmer, Inc. is incorporated in the State of Delaware, and its principal  
14 place of business is in the State of Indiana (specifically Warsaw, Indiana), the location of its  
15 headquarters and where the corporation's officers direct, control, and coordinate the corporation's  
16 activities. Accordingly, Defendant Zimmer, Inc. is a citizen of the States of Delaware and Indiana.  
17 *See* Complaint at ¶ 3.2; Declaration of Julie Brubaker in Support of Notice of Removal ("Brubaker  
18 Declaration") at ¶2.

19           4.       Defendant Zimmer US, Inc. is incorporated in the State of Delaware and its  
20 principal place of business is in the State of Indiana (specifically Warsaw, Indiana), the location  
21 of its headquarters and where the corporation's officers direct, control, and coordinate the  
22 corporation's activities. Accordingly, Defendant Zimmer US, Inc. is a citizen of the States of  
23 Delaware and Indiana. *See* Complaint at ¶ 3.3; Brubaker Declaration at ¶2.

24           5.       Defendant Biomet, Inc. is incorporated in the State of Indiana and its principal place  
25 of business is in the State of Indiana (specifically Warsaw, Indiana), the location of its headquarters  
26 and where the corporation's officers direct, control, and coordinate the corporation's activities.  
27  
28

Accordingly, Defendant Biomet, Inc. is a citizen of the State of Indiana. *See* Complaint at ¶ 3.4; Brubaker Declaration at ¶2.

6. Plaintiff Sarah Erhart resides in the State of Washington. *See* Complaint at ¶ 3.1. Upon information and belief, Plaintiff is a resident of the State of Washington. *Id.*

#### AMOUNT IN CONTROVERSY

7. “[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co. LLC v. Owens*, 574 U.S. 81, 89 (2014).

8. Under Local Civil Rule 101(a), Defendants have a reasonable, good-faith belief that Plaintiff seeks damages in excess of the jurisdictional requirement of \$75,000, notwithstanding the fact that the Complaint does not specify the dollar amount of damages being sought, for the reasons stated in paragraphs 9 through 14 below.

9. Plaintiff asserts three causes of action: (1) failure to pay minimum wage and overtime wages in violation of RCW 49.46.020 and RCW 49.46.130; (2) wage theft in violation of RCW 49.52.050; and failure to furnish accurate wage statements in violation of WAC 296-126-040. *See* Complaint at ¶¶4.3 through 5.10. In part, Plaintiff’s Prayer for Relief seeks: (1) compensatory damages for lost wages; (2) double damages pursuant to RCW 49.52.070; (3) attorney’s fees and costs under RCW 49.46.090, RCW 49.48.030, and RCW 49.52.070; and (4) pre- and post-judgment interest. *See* Complaint at pg. 6.

10. Plaintiff was employed by Zimmer US, Inc. from December 2, 2019, until March 7, 2022. *See* Complaint at ¶4.3. She alleges that she was misclassified as exempt and never paid for any time worked in excess of forty hours in a workweek. *See* Complaint at ¶¶4.5 and 4.8. Further, she alleges that she typically worked between forty and seventy hours per week. *See* Complaint at ¶4.7.

11. Between December 2, 2019 and April 5, 2020, Plaintiff was paid at a rate of \$80,000 per year, which equates to a rate of \$38.46 per hour or \$57.69 at a time and one half. *See* O’Connor Declaration at ¶3; Brubaker Declaration at ¶3. Between April 6, 2020 and May 17,

2020, Plaintiff was paid at a rate of \$64,000 per year, which equates to a rate of \$30.76 per hour or \$46.14 at a time and one half. *See* O'Connor Declaration at ¶3; Brubaker Declaration at ¶4. Between May 18, 2020 and March 21, 2021, Plaintiff was paid a rate of \$80,000 per year, which equates to a rate of \$38.46 per hour or \$57.69 at a time and one half. *See* O'Connor Declaration at ¶3; Brubaker Declaration at ¶5. Between March 22, 2021 and October 3, 2021, Plaintiff was paid at a rate of \$82,800 per year, which equates to a rate of \$39.81 per hour or \$59.72 at a time and one-half rate. *See* O'Connor Declaration at ¶3; Brubaker Declaration at ¶6. Between October 4, 2021 and March 7, 2022, Plaintiff was paid a rate of \$92,000 per year, which equates to a rate of \$44.23 per hour or \$66.35 at a time and one-half rate. *See* O'Connor Declaration at ¶3; Brubaker Declaration at ¶7.

12. Assuming Plaintiff worked 45 hours per week, she is claiming \$34,985.15 in unpaid wages. *See* O'Connor Declaration at ¶3. With requested doubling, she is seeking \$69,970.30. *Id.*; *see* Complaint at pg. 6.

13. Additionally, Plaintiff seeks attorneys' fees and costs, which itself is reasonably calculated to exceed the \$75,000 amount in controversy requirement. **Attachment A**, Complaint, Prayer for Relief. Attorneys' fees are included in computing the amount in controversy. *E.g.*, *Fritsch v. Swift Transp. Co. of Ariz., LLC*, 899 F.3d 785, 793 (9<sup>th</sup> Cir. 2018). This includes the amount of expected future attorneys' fees because they are "at stake" in the litigation. *Id.* at 794 (quoting from and applying *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 417 (9<sup>th</sup> Cir. 2018)). RCW 49.48.030 and RCW 49.52.070 authorizes an award of reasonable attorneys' fees and costs to a successful plaintiff. If Plaintiff prevails at trial, it is reasonable to conclude that her attorneys' fee petition alone would exceed \$75,000. *See* O'Connor Declaration at ¶4.

14. Based upon the foregoing, Plaintiff's Complaint, and her requested relief, the amount in controversy here exceeds \$75,000, and this action is between citizens of different states. Therefore, this Court has original jurisdiction over this civil action. 28 U.S.C. § 1332(a)(1).



## STATE COURT PROCEEDINGS

15. On March 9, 2022, Plaintiff filed her Complaint in King County Superior Court.

16. On March 9, 2022, the King County Superior Court issued an Order Setting Civil Case Schedule.

17. On March 9, 2022, a Case Information Cover Sheet was filed.

18. On March 30, 2022, Defendants' counsel filed a Notice of Appearance.

19. No further proceedings have been had in the state court as of the date of this Notice.

## TIMELY REMOVAL

20. This Notice of Removal is being timely filed within 30 days of March 11, 2022, when the first two defendants were served with the initial pleading upon which this removal is based. *See* 28 U.S.C. § 1446(b)(2)(B).

## VENUE

21. Under 28 U.S.C. § 1441(a), this Court is the appropriate venue for removal because it is the federal district court for the district and division where the King County Superior Court case is pending.

## NOTICE TO THE STATE COURT AND TO PLAINTIFF OF FILING NOTICE OF REMOVAL

22. Under 28 U.S.C. § 1446(d), and as affirmed in the attached Declaration of Service, Defendants have served Plaintiff with this Notice of Removal and with the Notice to State Court of Removal to Federal Court. Under 28 U.S.C. § 1446(d), a copy of the Notice of Removal is being filed with the King County Superior Court, attached to a pleading entitled Notice to State Court of Removal to Federal Court.

## STATE COURT RECORDS

23. Under 28 U.S.C. § 1446(a) and LCR 101(b)(1), Defendants are attaching a true and correct copy of the Complaint as **Attachment A**. Under LCR 101(c), a Verification of State Court Records will be filed within 14 days of this Notice of Removal, which will include copies of the original pleadings, as well as copies of all additional records and proceedings appearing in the state court file,

1 under a verification by counsel that these are true and complete copies of all the records and  
2 proceedings in the state court proceeding.

3 24. Defendants reserve the right to amend or supplement the statement of Defendants'  
4 grounds for removal of this case based upon discovery exchanged between the parties or circumstances  
5 that become known during the investigation of the case.

6 25. Based on the above, Defendants respectfully ask this Court to accept removal of this  
7 action on the ground of diversity jurisdiction.

8 DATED this 8<sup>th</sup> day of April, 2022.

9 Respectfully submitted,

10 JACKSON LEWIS P.C.

11  
12 By: 

Bryan P. O'Connor, WSBA #23867  
520 Pike Street, Suite 2300  
Seattle, WA 98101  
Telephone: (206) 626-6423  
[Bryan.OConnor@jacksonlewis.com](mailto:Bryan.OConnor@jacksonlewis.com)

13  
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16  
17 By: 

Megan Burrows Carpenter, WSBA #45941  
520 Pike Street, Suite 2300  
Seattle, WA 98101  
Telephone: (206) 626-6427  
[Megan.Carpenter@jacksonlewis.com](mailto:Megan.Carpenter@jacksonlewis.com)

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21 Counsel for Defendants  
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**DECLARATION OF SERVICE**

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Timothy W. Emery, WSBA #34078  
Patrick B. Reddy, WSBA #34092  
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Telephone: (206) 442-9106  
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Email: [emeryt@emeryreddy.com](mailto:emeryt@emeryreddy.com)  
[redryp@emeryreddy.com](mailto:redryp@emeryreddy.com)

☒ via CM/ECF System

☒ via Electronic Mail

☐ via USPS Mail

☐ via Federal Express

☐ via Hand-delivery

☐ Other: \_\_\_\_\_

Counsel for Plaintiff

DATED this 8<sup>th</sup> day of April, 2022.

  
\_\_\_\_\_  
Tanya Stewart

4871-7530-8570, v. 1

ATTACHMENT A

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SARAH ERHART, an individual,

Plaintiff,

v.

ZIMMER, INC., a Delaware corporation dba  
ZIMMER BIOMET; ZIMMER US, INC., a  
Delaware corporation dba ZIMMER BIOMET;  
BIOMET, INC., an Indiana corporation dba  
ZIMMER BIOMET; and DOES 1-10,

Defendants.

No. 22-2-03423-8 SEA

COMPLAINT FOR DAMAGES,  
INJUNCTIVE RELIEF, AND  
DECLARATORY RELIEF

Plaintiff Sarah Erhart ("Plaintiff"), by and through her attorneys, complains and alleges against Defendants Zimmer, Inc. dba Zimmer Biomet, Zimmer US, Inc. dba Zimmer Biomet, and Biomet, Inc. dba Zimmer Biomet (collectively, "Defendants") as follows:

**I. NATURE OF THE CASE**

1.1 This is an action against Defendants for their violations of Washington's wage and hour laws, including Defendants' failure to pay minimum wage for all hours worked, failure to pay overtime, and failure to furnish accurate wage statements.

///

///

COMPLAINT FOR DAMAGES, INJUNCTIVE  
RELIEF, AND DECLARATORY RELIEF - 1

**EMERY | REDDY, PLLC**  
600 Stewart Street, Suite 1100  
Seattle, WA 98101  
Phone: (206) 442-9106 • Fax: (206) 441-9711

## II. JURISDICTION AND VENUE

2.1 This Court has jurisdiction over this cause of action under RCW 2.08.010.

2.2 Venue is proper in this Court pursuant to RCW 4.12.020 and/or RCW 4.12.025 because the acts and omissions alleged took place in whole or in part in King County, Washington and Defendants transact business in King County, Washington.

## III. PARTIES

3.1 Plaintiff Sarah Erhart is a resident of Clark County, Washington and worked for the Defendants in King County, Washington, as well as in Oregon, Idaho, Hawaii, Northern California, and Indiana. Plaintiff is, and at all times relevant to this matter was, an employee of Defendants as such term is defined in the statutes listed herein.

3.2 Defendant Zimmer, Inc. ("Zimmer") is a Delaware corporation doing business as Zimmer Biomet. Zimmer regularly conducts business in King County, Washington. Zimmer is, and at all times relevant to this matter was, an employer as such term is defined in the statutes listed herein.

3.3 Defendant Zimmer US, Inc. ("Zimmer US") is a Delaware corporation doing business as Zimmer Biomet. Zimmer US regularly conducts business in King County, Washington. Zimmer US is, and at all times relevant to this matter was, an employer as such term is defined in the statutes listed herein.

3.4 Defendant Biomet, Inc. ("Biomet") is an Indiana corporation doing business as Zimmer Biomet. Biomet regularly conducts business in King County, Washington. Biomet is, and at all times relevant to this matter was, an employer as such term is defined in the statutes listed herein.

3.5 Defendants Does 1-10 are as yet unknown individuals or business entities who or which may hold an ownership interest in Zimmer, Inc., Zimmer US, Inc., and/or Biomet, Inc.

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///

#### IV. STATEMENT OF FACTS

4.1 Plaintiff incorporates by reference and re-alleges paragraphs 1.1 – 3.5 as if fully set forth herein.

4.2 Defendants design, manufacture, market, and service medical devices, including robotic surgical systems.

4.3 On approximately December 2, 2019, Defendants hired Plaintiff as a Technical Services Specialist. In approximately December 2020, Defendants promoted Plaintiff to Field Service Senior Engineer I. In approximately October 2021, Defendants promoted Plaintiff to Field Service Senior Engineer II.

4.4 Plaintiff travels to various hospitals in Washington, Oregon, Idaho, Hawaii, Northern California, and Indiana to install and service robotic surgical systems (“robots”), including performing preventative and corrective maintenance. Plaintiff wears a toolbelt and carries approximately 75 lbs of tools and equipment to the job sites.

4.5 At all times relevant to this matter, Defendants misclassified Plaintiff as exempt and refused to pay her overtime.

4.6 Defendants require Plaintiff to track her time and turn in time sheets.

4.7 Plaintiff typically works 40-70 hours per week.

4.8 Defendants do not pay Plaintiff for hours worked in excess of 40 in a workweek, including overtime premiums.

4.9 Defendants do not provide Plaintiff with accurate wage statements. Specifically, the wage statements do not accurately reflect all hours worked, overtime earned, or gross wages earned.

4.10 As a result of Defendants’ actions and omissions, Plaintiff has been damaged in an amount to be proven at trial.

4.11 The conduct of Defendants as described herein violates the public policy and laws of the State of Washington. Defendants will continue to engage in these alleged violations unless

1 or until they are enjoined by this Court. A remedy of damages for past violations of public policy  
2 and laws is not adequate, and Defendants should be compelled by this Court to comply with said  
3 public policies and laws, specifically, but without limitation, by paying Plaintiff for all hours  
4 worked and issuing accurate wage statements.

## 5 **V. CAUSES OF ACTION**

6 5.1 Plaintiff incorporates by reference and re-alleges paragraphs 1.1 – 4.11 as if fully  
7 set forth herein.

### 8 **FIRST CAUSE OF ACTION** 9 **FAILURE TO PAY MINIMUM WAGE AND OVERTIME WAGES** 10 **VIOLATION OF RCW 49.46.020 AND RCW 49.46.130**

11 5.2 Defendants failed to pay Plaintiff for the hours she worked in excess of 40 in a  
12 workweek.

13 5.3 Defendants' failure to pay Plaintiff at least minimum wage for all hours worked in  
14 excess of 40 in a workweek constitutes a violation of RCW 49.46.020.

15 5.4 Defendants' failure to pay Plaintiff one and one-half times her regular rate of pay  
16 for all hours worked in excess of 40 in a workweek constitutes a violation of RCW 49.46.130.

17 5.5 As a result of Defendants' unlawful actions and omissions, Plaintiff has been  
18 damaged in an amount to be established at trial and is entitled to the recovery of such damages,  
19 including interest thereon, as well as attorney's fees and costs pursuant to RCW 49.46.090, RCW  
20 49.48.030, and RCW 49.52.070.

### 21 **SECOND CAUSE OF ACTION** 22 **WAGE THEFT** 23 **VIOLATION OF RCW 49.52.050**

24 5.6 Washington's Wage Rebate Act, RCW 49.52, prohibits employers from paying  
25 employees less than the wages to which they are entitled by any statute, ordinance, or contract.  
26 RCW 49.52.050(2).

5.7 As described more fully above, Defendants failed to pay Plaintiff for the hours she  
worked over 40 in a workweek, and also failed to pay overtime premiums for the overtime hours.



5.8 Defendants' failure to pay Plaintiff the wages to which she is entitled was willful.

5.9 Defendants' conduct constitutes wage theft in violation of RCW 49.52.050.

5.10 As a result of Defendants' unlawful actions and omissions, Plaintiff has been damaged in an amount to be established at trial and is entitled to recovery of twice such damages, including interest thereon and attorney's fees and costs pursuant to RCW 49.12.150, RCW 49.48.030, and RCW 49.52.070.

**THIRD CAUSE OF ACTION**  
**FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**  
**VIOLATION OF WAC 296-126-040**

5.11 Employers are required to furnish to each employee at the time of payment of wages an itemized statement showing the pay basis (i.e., hours or days worked), rate or rates of pay, gross wages and all deductions for that pay period. WAC 296-126-040.

5.12 The wage statements issued by Defendants do not accurately reflect all hours worked, overtime earned, or gross wages earned.

5.13 Defendants' failure to furnish accurate wage statements to Plaintiff constitutes a violation of WAC 296-126-040.

5.14 As a result of Defendants' unlawful actions and omissions, Plaintiff has been damaged in an amount to be proven at trial.

**FOURTH CAUSE OF ACTION**  
**INJUNCTIVE RELIEF**

5.15 As described more fully above, Plaintiff is entitled to an injunction prohibiting Defendants from further violations of state wage laws.

**FIFTH CAUSE OF ACTION**  
**DECLARATORY RELIEF**

5.16 As described more fully above, Plaintiff is entitled to a declaration of her right to receive overtime pay and accurate wage statements.

**VI. DAMAGES**

6.1 Plaintiff incorporates by reference and re-alleges paragraphs 1.1 – 5.16 as if fully set forth herein.

6.2 Defendants' unlawful conduct with regard to their employment of Plaintiff has caused the following damages:

6.3 Lost back pay, wages, and benefits in amounts to be established at trial;

6.4 Statutory and punitive damages; and

6.5 Out of pocket expenses, litigation costs, and attorney's fees in amounts to be established at trial.

**VII. REQUEST FOR RELIEF**

Plaintiff requests that the Court enter judgment against the Defendants as follows:

1. Compensatory damages for lost wages in an amount to be proven at trial;

2. Double damages pursuant to RCW 49.52.070;

3. Preliminary and permanent injunctive relief prohibiting, restraining, and enjoining Defendants from engaging in the conduct complained of herein;

4. Declaratory relief to the effect that Defendants have violated the statutory rights of Plaintiff;

5. Attorney's fees and costs pursuant to RCW 49.46.090, RCW 49.48.030, and/or RCW 49.52.070;

6. Pre- and post-judgment interest;

7. Leave to amend the Complaint to conform to the evidence presented at or prior to trial; and

8. Any additional or further relief which the Court deems equitable, appropriate, or just.

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1 DATED March 9, 2022.

2 EMERY | REDDY, PLLC

3  
4 By:

  
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